

MANDATE

1 : 09-cv-6148
Trial Judge: Victor Marrero

10-226-cv
Cardell Fin. Corp. v. Suchodolski Assocs., Inc.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 9th day of February, two thousand eleven.

PRESENT: DENNIS JACOBS,
Chief Judge,
PETER W. HALL,
RAYMOND J. LOHIER, Jr.,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: MARCH 2, 2011

- - - - -X
Cardell Financial Corp. and Deltec
Holdings, Inc.,
Petitioners-Appellees,

-v.-

10-226-cv

Suchodolski Associates, Inc. and
Consultora Worldstar S.A.,
Respondents-Appellants.

- - - - -X
FOR APPELLANTS: Michael Evan Jaffe (David L. Kelleher,
Jackson & Campbell, P.C., on the brief),
Pillsbury Winthrop Shaw Pittman, LLC,
Washington, D.C.

MANDATE ISSUED ON 03/02/2011

1 **FOR APPELLEES:** John Martin O'Connor (Helen J.
 2 Williamson, on the brief), Anderson Kill
 3 & Olick, P.C., New York, New York.
 4

5 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**
 6 **AND DECREED** that the amended judgment of the district court
 7 be **AFFIRMED**.
 8

9 Respondents-Appellants Suchodolski Associates, Inc. and
 10 Consultora Worldstar S.A. appeal from an amended judgment of
 11 the United States District Court for the Southern District
 12 of New York (Marrero, J.) confirming an arbitration award
 13 and injunctive relief in favor of Petitioners-Appellees
 14 Cardell Financial Corp. and Deltec Holdings, Inc. We assume
 15 the parties' familiarity with the underlying facts, the
 16 procedural history, and the issues presented for review.
 17

18 "In reviewing a district court's decision to confirm an
 19 arbitral award, we review findings of fact for clear error
 20 and conclusions of law de novo." Idea Nuova, Inc. v. GM
 21 Licensing Group, Inc., 617 F.3d 177, 180 (2d Cir. 2010).
 22 "It is well established that courts must grant an
 23 arbitration panel's decision great deference." Duferco
 24 Int'l Steel Trading v. T. Klaveness Shipping A/S, 333 F.3d
 25 383, 388 (2d Cir. 2003). Manifest disregard of the law is
 26 evidenced only in "those exceedingly rare instances where
 27 some egregious impropriety on the part of the arbitrators is
 28 apparent." Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.,
 29 548 F.3d 85, 91-92 (2d Cir. 2008), rev'd on other grounds,
 30 130 S. Ct. 1758 (2010) (internal quotation marks omitted).
 31 The doctrine is "a mechanism to enforce the parties'
 32 agreements to arbitrate rather than as judicial review of
 33 the arbitrators' decision." Id. at 95.
 34

35 In order to find manifest disregard of the law: (1) we
 36 first "consider whether the law that was allegedly ignored
 37 was clear, and in fact explicitly applicable to the matter
 38 before the arbitrators," Duferco, 333 F.3d at 390; (2) we
 39 must then find that "the law was in fact improperly applied
 40 [by the Arbitrator], leading to an erroneous outcome," id.;
 41 and finally (3) we determine whether "the arbitrator must
 42 have known of [the applicable law's] existence, and its
 43 applicability to the problem before him," id. With respect
 44 to the last element, "we impute only knowledge of governing
 45 law identified by the parties to the arbitration." Id.; see
 46 also Stolt-Nielsen, 548 F.3d at 93 (quoting the Duferco
 47 three-part test in its entirety).

1 After having reviewed Appellants' contentions on appeal
2 and the record of the proceedings below, we affirm for
3 substantially the same reasons stated by the district court
4 in its thorough opinion.

5
6 We have considered all of Appellants' remaining
7 arguments and find them to be without merit. For the
8 foregoing reasons, the amended judgment of the district
9 court is hereby **AFFIRMED**.

10
11
12 FOR THE COURT:
13 CATHERINE O'HAGAN WOLFE, CLERK
14




A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit


